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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,932	03/16/2001	Keith R. Jones	MNDSPD.0005P	7235

7590 05/24/2004

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EXAMINER

WEST, JEFFREY R

ART UNIT PAPER NUMBER

2857

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Information Disclosure Statement

1. On December 11, 2003, Applicant filed a Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97. The Examiner, however, notes that 37 C.F.R. § 1.97 indicates:

- (c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:
 - (1) The statement specified in paragraph (e) of this section; or
 - (2) The fee set forth in § 1.17(p).
- (d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:
 - (1) The statement specified in paragraph (e) of this section; and
 - (2) The fee set forth in § 1.17(p).
- (e) A statement under this section must state either:
 - (1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
 - (2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

37 C.F.R. § 1.56 indicates that:

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
 - (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

Since a Final Office Action was mailed on June 16, 2003, the filing of this Information Disclosure Statement must meet the conditions of C.F.R. § 1.97(d).

2. While Applicant has indicated with the filing of the Information Disclosure

Statement that, "no item of the information contained in the information disclosure statement was known to any individual designated in §1.56(c) more than three months prior to the filing of the information disclosure statement," it is noted that the items listed on the Information Disclosure Statement were mailed to Applicant in a 408-Written Opinion of PCT/US02/07790, which is a continuation of the instant application. Since the 408-Written Opinion of PCT/US02/07790 was mailed on March 20, 2003, which is more than three months prior to the filing of the Information Disclosure Statement, the Information Disclosure Statement does not meet the requirements of 37 C.F.R. § 1.97 and is not considered.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2857

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrww

May 12, 2004

